

ENTERED

June 26, 2020

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

ROGELIO GARCIA, §
§
Plaintiff, §
VS. § CIVIL ACTION NO. 2:20-CV-019
§
LORIE DAVIS-DIRECTOR TDCJ-CID, *et al,* §
§
Defendants. §

ORDER ADOPTING MEMORANDA AND RECOMMENDATIONS

Pending before the Court is Plaintiff's Amended Complaint (D.E. 19), subject to initial screening. On April 8, 2020, United States Magistrate Judge Jason B. Libby issued a Memorandum and Recommendation (D.E. 28), recommending that Plaintiff's case be dismissed for failure to state a claim upon which relief may be granted or as frivolous. In sum, Plaintiff had not named as Defendants those who could be held responsible for his claim and the named Defendants did not have applicable legal responsibility.

Plaintiff timely filed a letter response, construed as an objection and a motion to amend (D.E. 29). He complains of the need for a lawyer to investigate his claim and suggests that a proper Defendant would be "the Captain." The Magistrate Judge issued an Order (D.E. 30) denying the request for an attorney. Because the letter does not address any legal or factual error in the Magistrate Judge's analysis of the amended complaint as it existed, the Court OVERRULES any objection.

The Magistrate Judge then issued a Memorandum and Recommendation to Deny Plaintiff's Motion to Amend (D.E. 32) on the basis that the amendment would be futile

because the claim is barred by limitations. In his second letter, Plaintiff merely sets out excuses for why he could not name the appropriate Defendants. None of his excuses call into question the application of the statute of limitations. Because his response does not identify any error in the factual or legal analysis of this case, the Court OVERRULES any objection.

Having reviewed the findings of fact, conclusions of law, and recommendations set forth in the Magistrate Judge's Memoranda and Recommendations (D.E. 28, 32), as well as Plaintiff's Objections, and all other relevant documents in the record, and having made a *de novo* disposition of the portions of the Magistrate Judge's Memorandum and Recommendation to which objections were specifically directed, the Court OVERRULES Plaintiff's Objections and ADOPTS as its own the findings and conclusions of the Magistrate Judge. Accordingly, Plaintiff's motion to amend (D.E. 29) is DENIED and this action is DISMISSED WITH PREJUDICE for failure to state a claim for relief and/or as frivolous pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1). It is further ORDERED that this dismissal not be reported as a "strike" for purposes of 28 U.S.C. § 1915(g) due to the particular circumstances of the case.

ORDERED this 26th day of June, 2020.



NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE